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**Notice of Allowability**

Application No.

10/801,720

Examiner

Michael D. Meucci

Applicant(s)

SHIGA ET AL.

Art Unit

2142

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to response filed 23 October 2007.
2. ☒ The allowed claim(s) is/are 1,3-7,9,10,12-16 and 18-38.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_



ANDREW CALDWELL  
 SUPERVISORY PATENT EXAMINER

## DETAILED ACTION

### ***Oath/Declaration***

1. The application presents a claim for subject matter not originally claimed or embraced in the statement of the invention. The original claims filed 17 March 2004 did not contain some subject matter that is now included in the present claims, specifically, as set forth in exemplary claim 1: "a system comprising: a first device; a second device; a plurality of paths *each being* connected between the first device and the second device; and a third device which is connected to the first device, wherein the first device transfers data, *using a plurality of packets*, to the second device across the plurality of paths, *wherein each of the packets includes an address of the first device as a source address, an address of the second device as a destination address and a portion of the data to be transferred from the first device to the second device, wherein the number of packets transferred on each path of the plurality of paths is set according to* predetermined ratio *for said each path, wherein said predetermined ration for said each path defines an amount of packets to be allocated on said each path relative to a total amount of packets on all of the paths so that packets on said each path of the plurality of paths are adjusted relative to the packets of each of the other paths such that a total amount of packets across the plurality of paths carries sufficient data equal to a total of the data to be transferred from the first device to the second device, wherein when the third device detects congestion of packets on one path of the plurality of paths, the third device notifies the first device of the congestion on the one path*, wherein the first device

changes the predetermined ratio of each of the paths, thereby changing the amount of *packets* to be allocated to each of the plurality of paths, based on notification from said third device of the congestion *on the one path*, wherein the first device transfers data, *using the packets*, to the second device *across* the plurality of paths according to the changed predetermined ratio of *each of the paths*, wherein said first device and the second device are storage devices *each having a disk drive for storing data*, wherein the third device has information on the predetermined ratio and a change rate to be applied to the predetermined ratio *of each of the paths* to compute the changed predetermined ratio *of each of the paths*, when a change in the predetermined ratio *of each of the paths* is required, *said change rate being a predetermined minimum value the predetermined ratio is to be increased or decreased when changed*, wherein the third device, when congestion *on the one path* has been detected, computes the changes predetermined ration on each of the paths based on the change rate, and sends information on the changed predetermined ration *of each of the paths* to the first device, and wherein the first device transfers data, *using packets*, to the second device *across* the plurality of paths based on the changed predetermined ration of each of the paths," (*emphasis added*).

A supplemental oath or declaration is required under 37 CFR 1.67. The new oath or declaration must properly identify the application of which it is to form a part, preferably by application number and filing date in the body of the oath or declaration.

See MPEP 602.01 and 602.02.

### ***Conclusion***

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Meucci at (571) 272-3892. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell, can be reached at (571) 272-3868. The fax phone number for this Group is 571-273-8300.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [michael.meucci@uspto.gov].

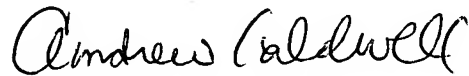
All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Andrew Caldwell". The signature is written in a cursive, flowing style.

ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER